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ELECTION COMMISSION, INDIA NOTIFICATION

New Delhi, the 14th May 1957

S.R.O. 1647.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 239 of 1957, presented to the Commission on the 24th April, 1957, under section 81 of the said Act, by Shri R. T. Joseph son of Capt. R. T. Thomas I.M.S., of Ramapuram House, Kizhathadiyoor, Palai, and Shri Joseph M. J., son of Ouseph of Mannoranparampil House, Edappady, Bharananganam, calling in question the election to the House of the People from the Moovattupuzha constituency of that House of Shri George Thomas Kottukappally, Palai.

Received by Registered Post this the Twentyfourth day of April, One Thousand Nine Hundred and fifty Seven.

BEFORE THE ELECTION COMMISSION OF INDIA, DELHI

ELECTION PETITION No. 239 OF 1957

(Petition under S. 81 R.P. Act).

1. R. T. Joseph, son of Capt. R. T. Thomas I.M.S., of Ramapurath House, Kizhathadiyoor, Palai.
2. Joseph M. J., son of Ouseph of Mannoranparampil House, Edappady, Bharananganam.—*Petitioners.*

Versus

George Thomas Kottukappally, Palai.—*Respondent.*

Address for communications is that of the First Petitioner above.

The petitioners above-named state as follows:—

1. The petitioners are electors who were entitled to vote at the general election held in March 1957; their names had been entered in the Electoral Roll of the Moovattupuzha Parliamentary Constituency, Poonjar Assembly Constituency, against Serial No. 392, of Ward No. 9 of the Palai Municipality (1st Petitioner) and Serial No. 606 of Ward No. IV of Bharananganam Village, ditto Panchayat. (2nd Petitioner).

2. The Respondent is the returned candidate from the Moovattupuzha Parliament Constituency.

3. The election of the Respondent has been illegally obtained or made, and is void, *inter alia*, on the following grounds:—

(1) That the corrupt practice of bribery within the meaning of clause (I) of S. 123 of the Representation of Peoples Act, has been committed by the Respondent through his agents and deputies, or other persons with his and his Election Agent's consent. Thus,

(a) Express offer of pecuniary and other gratification was made to a rival candidate, namely Sri Emmanuel Paikeday, with the object of inducing him to withdraw from being a candidate, or retire from contest of the Parliament seat he was contesting for both the Moovattupuzha Parliament seat and one of its constituent Assembly seats, namely Poonjar. Such offer, after previous indirect attempts, was at last directly made to Mr. Paikeday at Ernakulam at his residence on or about the 9th of February, 1957, by Sri. K. C. Sebastian, B.A., L.T. Headmaster, St. Thomas High School, Palai, Sri. K. M. Michael, B.A., B.L., Retired S. T. and Agrl. I. T. Assistant Commissioner of T. C.; and Sri Eappen Cheerankuzhi, Palai, a well-known, long-standing henchman, employee, and agent of the Respondent.

This offer of pecuniary gratification having been rejected, other forms of gratification were put up for consideration between the parties. One was the obtaining of the retirement of the Congress rival to Mr. Paikeday for the Assembly seat. Another was that if this were impossible then the Respondent would arrange for meeting the election expenses of Mr. Paikeday for the Assembly seat as well as compensate him for the security deposit and expenses so far incurred. Subsequently the latter alternative materialised; thus,

(b) On 20th February, the last day for effective 'retirement' from contest, the said Sri Eappen Cheerankuzhi together with Sri Varkey Mathew Vellookunnel, a near relation and partisan of the Respondent, as well as a friend and supporter at first, of Mr. Paikeday for the Assembly seat, and who had been standing aloof for some time then for Mr. Paikeday having refused to give up the Parliament seat in favour of the Respondent, went to Mr. Paikeday's Election Office at Palai and at last prevailed upon him to give up the Parliament seat in consideration of the express promise and undertaking by Mr. Varkey Mathew openly made in the presence of many gentlemen then present in the office, that he would meet all the election expenses of Mr. Paikeday for the Assembly seat, and that in token of this undertaking he would accept the position of the latter's Election Agent and that he would also see that the Communist rival for the seat was also retired immediately. Acting on the faith of this promise Mr. Paikeday along with Mr. Varkey Mathew and a few of the gentlemen present, immediately drove up to the Kottayam Collectorate and submitted just before the time expired, his Notice of Retirement from contest of the Parliament seat, and also filed with the Returning Officer for the Poonjar Assembly constituency (the Asst. Excise Commissioner, Kottayam) the formal document duly appointing Mr. Varkey Mathew as his Election Agent. And Mr. Varkey Mathew accordingly since paid certain sums to the persons who were in charge of Mr. Paikeday's Election Office at Palai. And Varkey Mathew has received the money from the Respondent, as he had been promised.

(ii) That the corrupt practice of general and particular undue influence within the meaning of cl. (2) of S. 123, R.P. Act, has been committed by the Bishop of Palai, Mar Sabastian Vayalil, and by many priests under him holding charge of the numerous churches and chapels and convents under his authority, by gravely interfering with the electoral right of voting, and also of refraining from voting, of the Roman Catholic voters (who form the majority of voters in the constituency, and in particular in its constituent constituencies of Poonjar and Thodupuzha). This corrupt and undue influence was exercised chiefly by the issue of an official "Diocesan Bulletin", being "Pastoral Letter No. 32", dated the 20th February 1957, and addressed "to all the priests, monks, nuns, and all our dear faithful under our authority" and compulsorily read and explained by the respective priests in all the numerous churches and chapels in his diocese, during the solemn service of the Mass on the 24th of February, the Sunday immediately preceding the polling day—(2nd March) enjoining upon all the faithful, firstly, to vote only for the Congress candidates (of course speaking the name 'Congress', apparently to quibble over it.); secondly, that no one could refrain from voting, that to go and vote was their unavoidable duty, thus misleading and coersing under fear of sin, even those who would otherwise have refused to go and vote for anybody.

Not only this. In order to manifest the spiritual gravity and awfulness attaching to the injunction and the obligation for blind obedience thereto, and to instil a superstitious fear against its breach, the Bishop added a further command in the Bulletin, that "on the polling day morning the bells in all the churches

and chapels shall be rung out in volley" (to collect the faithful as on exceptionally grave occasions) "and a solemn adoration of the Blessed Sacrament (the highest and the most solemn form of worship in the Catholic Church) shall be conducted for one hour, which all the faithful who can, shall attend" and "thence they shall proceed in batches after batches to the polling booths and vote" as enjoined. This was a gross abuse for sheer partisan politics, of the great religious and spiritual power and influence that the Bishop and priests, and the greatest sacrament of the Church, wield over the faithful, and amounted to spiritual and mental intimidation and coercion, exercised in the interests of the Respondent, at his instance and that of his agents and partisans.

And this solemn injunction thus rendered sacred and awe-inspiring was naturally obeyed implicitly by the vast majority of the Catholic voters (half of whom were simple women-folk) thus materially affecting the result also of the election in favour of the Respondent, and his companions of the Poonjar and Thodupuzha Assembly constituencies, with whom he was carrying on joint election propaganda.

(iii) That the corrupt practice under cl. (3) of Section 123, of making a systematic appeal particularly to the Catholic voters, on grounds of religion and community, has been committed by the "Deepika", a Catholic Malayalam Daily news-paper run by Catholic priests and published from Kottayam and considerably subsidised by the Respondent, and widely circulating among Catholics; and also by many priests under the Bishop of Palai, through the abuse of religious sermons and sacraments as instanced already, in the interests of the Respondent and his Party.

(iv) That the corrupt practice within cl. (5) of S. 123, of hiring or procuring of motor vehicles for conveying electors to or from polling booths, has been committed extensively by the respondent's agents and partisans with his and his Agent's consent. Thus,

(a) The following electors were conveyed to the No. 2 Lalam Polling Booth (Palai Municipality) in Motor Vehicle T.C.K. 1621 driven at the time by one Raphael usually called Kuttappan, under charge of Respondent's well-known henchman C. T. Francis, generally known as Chittettu Prenchu; and in spite of loud protest by one Avirah Thomman Kattayil, Ward No. 5, Palai Municipality, the vehicle proceeded to the Polling booth after knocking him down, luckily not fatally. A criminal case is pending inquiry on this incident, with the local Police (Meenachil). The electors conveyed were:—

Electoral roll No. (of Ward No. 4, Palai Municipality).

98—(Kattakayam) Mariam Devasia.

101—(Manimala) Anna Itiyavirah.

103—(Vollaringatt) Eli Chandy.

(b) Another recorded similar instance was that of conveying another set of electors in motor vehicle bearing No. T.C.K. 2904, driven at the time by one P. K. Lukose of Paravur Parampil, to the Kunnamm Polling Booth (No. 16) in Poonjar Thekkekara Village by the joint agents of the Respondent and his companion the Congress candidate for Poonjar, and their Party workers. The electors conveyed were:—

604—Ouseph (Puthenpurakkal);

607—Rosa (Puthenpurakkal);

611—Kli (Ampaghathinakunnel);

612—Kli (Amphazhathinakunnel); and

619—Mariam Mibael (Arayathinal).

In this instance also strong protests were raised by the agents and workers of the non-Congress candidates before the presiding officer of the Booth, and he recorded statements from the said electors who admitted the fact that they were conveyed there by the Congress Party workers and agents as alleged, in the said motor vehicle.

4. It is therefore most respectfully prayed that the election of the Respondent be declared VOID, and making all such consequential orders as may be deemed fit and proper, allow this Petition with all costs.

Dated this the 23rd April 1957.

Petitioners.

Verification

I, the above-named 1st Petitioner, declare that the facts stated above in paragraphs 1, 2, and 3 (i) (b) and (ii) and (iii) are true to my own knowledge, and the rest true to the information which I believe to be true.

First Petitioner.

Encl.—A Kerala Govt. Treasury Receipt for the security deposit of Rs. One Thousand by the second petitioner above in favour of the Secretary to the Election Commission is enclosed herewith.

[No. 82/239/57.]

By Order,

DIN DAYAL, Under Secy.